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SUMMARY RECORD OF THE 38th MEETING

Chairman: Mr. CISSÉ (Senegal)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued) (A/49/57 and Corr.1, A/49/58, A/49/75-S/1994/180, A/49/182, A/49/206, A/49/220, A/49/221, A/49/265, A/49/271, A/49/282, A/49/283, A/49/286, A/49/287 and Corr.1-S/1994/894 and Corr.1, A/49/292, A/49/298, A/49/304, A/49/386, A/49/422, A/49/532, A/49/591)

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Opening statements by special rapporteurs and special representatives

(d) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE VIENNA DECLARATION AND PROGRAMME OF ACTION (continued) (A/49/668; A/C.3/49/5, A/C.3/49/8, A/C.3/49/10)

(e) CAPITAL PUNISHMENT (continued) (A/49/234 and Add.1 and 2)

1. Mr. FALL (Assistant Secretary-General for Human Rights) introduced agenda item 100 (b).

2. Referring first to the right to development, he said that the General Assembly, at its forty-eighth session, had requested the Secretary-General to inform it of the activities of the organizations, programmes and agencies of the United Nations for the implementation of the Declaration on the Right to Development. More than 20 United Nations organizations had provided information on that subject, which was contained in the report of the Secretary-General submitted to the current session. Moreover, the Working Group on the Right to Development established by the Commission on Human Rights had held its second and third sessions in 1994. The Working Group had a dual mandate: to identify

the obstacles to the implementation of the Declaration on the Right to Development and to recommend ways and means of enabling all States to realize that right. The Working Group would submit the reports on both its sessions to the fifty-first session of the Commission on Human Rights.

3. Disadvantaged children, particularly street children, whose situation was ever more tragic, were among those who suffered most from being denied the right to development. Within the context of his mandate, the Commission on Human Rights Special Rapporteur on the sale of children, child prostitution and child pornography had raised the issue of poverty as an essential factor in child exploitation.

4. Referring to the question of minorities, he said that, in 1992, the General Assembly had adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Pursuant to resolution 1994/22 of the Commission on Human Rights, the Secretary-General had drafted a report on the promotion of the Declaration by States, the United Nations human rights bodies, specialized agencies and special rapporteurs.

5. Concerning indigenous peoples, he noted that the General Assembly, at its forty-eighth session, had requested the Coordinator of the International Year of the World's Indigenous People to submit his final report on the activities developed and the results achieved within the context of the Year. That document (A/49/446) was before the members of the Committee. Moreover the Subcommission on Prevention of Discrimination and Protection of Minorities, at its most recent session, had adopted the draft declaration on the rights of indigenous peoples, elaborated by the Working Group on Indigenous Populations. In February 1995, the draft would be submitted to the Commission on Human Rights at its fifty-first session. After its adoption, the Declaration would be a valuable tool for the activities of the International Decade of the World's Indigenous People.

6. Referring to religious tolerance, he said that the Commission on Human Rights, in its resolution 1994/18, had noted with concern that instances of violence based on all forms of religious extremism threatened the exercise of human rights and fundamental freedoms in many parts of the world. The Commission had therefore encouraged the Special Rapporteur to continue to examine incidents and governmental actions in all parts of the world that were incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, adopted in 1981. The Commission had also requested the Special Rapporteur to recommend action to be taken, if necessary, in order to remove those obstacles. Lastly, it had requested the Secretary-General to report to the Commission at its fifty-first session on measures taken by Member States to implement the 1981 Declaration.

7. Concerning the basic factors which undermined respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes, he said that the question was considered every year

by the Commission on Human Rights, as requested by the Secretary-General in 1989.

8. Concerning approaches which might help to improve the effective enjoyment of human rights and fundamental freedoms, he said that the Centre for Human Rights had worked hard to develop information activities in that field. The Centre had published, inter alia, the Human Rights Bibliography together with the United Nations library. The objective of the World Public Information Campaign for Human Rights - which collaborated closely with the United Nations bodies and other international organizations - was to help the public gain a better understanding of the fundamental rights of the person, United Nations activities for the promotion of those rights and international mechanisms which could guarantee that they would be respected and exercised. It was to be hoped that that campaign would be strengthened by the United Nations decade for human rights education, which would begin on 1 January 1995. Over the next 10 years, the international community must contribute to establishing a veritable universal culture of human rights. Education in that field concerned all social groups and was aimed not only at ensuring respect for human rights but also at establishing peace, social justice and democracy. It must be provided by States with the assistance of competent national institutions and non-governmental organizations. For that reason, the draft plan of action submitted for consideration by members of the Committee dealt with a whole range of activities to be launched at the international, national and local levels. Within the framework of its programme of advisory services and technical assistance, the Centre for Human Rights helped to establish such a culture of human rights by encouraging the integration of concepts relating to those rights in school curricula and by providing training and assistance to teachers.

9. In order to help States create conditions that would promote strengthening of the rule of law, the Centre had developed various forms of assistance. In recent years it had provided electoral assistance to various States in Africa, Asia, Europe and Latin America. It had also formulated guidelines for analysing electoral law and procedures, published a manual on human rights and elections and drawn up draft guidelines for evaluating requests for electoral assistance.

10. Turning to the question of regional arrangements for the promotion and protection of human rights, he noted that, as indicated in the Secretary-General's report (A/49/321), the Centre for Human Rights had continued and strengthened its cooperation with such regional organizations as the African Commission on Human and Peoples' Rights, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, the African Centre for Democracy and Human Rights Studies, the Arab Institute for Human Rights and the Council of Europe.

11. While the United Nations had made major progress in the field of human rights, much remained to be done to make those rights concrete and truly universal.

12. Turning to agenda item 100 (c), entitled "Human rights situations and reports of special rapporteurs and representatives", he said that special

rapporteurs and representatives played a very important role by reminding the international community of its intrinsic responsibility for those whose human rights had been forgotten and the victims of human rights violations.

13. In the case of Rwanda, the Special Rapporteur appointed at the special session of the Commission on Human Rights in May 1993 had already undertaken three missions to Rwanda, where the situation remained grave despite efforts to stabilize the country. He drew attention to the statement on that subject made by the High Commissioner for Human Rights, who had launched a wide-ranging human rights operation in that devastated country.

14. The Centre for Human Rights also maintained a presence in the former Yugoslavia. The Special Rapporteur, who had just submitted his thirteenth periodic report, was assisted in the field by eight representatives located in the regional offices at Zagreb, Sarajevo and Skopje. Through monitoring of the human rights situation in the former Yugoslavia it had been possible to conduct in-depth studies and to identify the many problems posed by monitoring such an extensive territory. However, the future of the operation appeared uncertain; if its costs could not be fully charged against the regular budget of the United Nations, its financing would run out by the end of the year, since no voluntary contributions had been confirmed.

15. Concerning Cambodia, he referred the Committee to the reports and recommendations of the Special Representative of the Secretary-General. The Centre for Human Rights had a technical assistance office in Phnom Penh that was deserving of increased attention because of its activities and financial difficulties.

16. In South Africa, the restoration of democracy and cooperation with the new Government had allowed the Ad Hoc Working Group of Experts on southern Africa to undertake a three-week mission to that country in August 1994, the first since the Working Group's establishment in 1967. Its report would be submitted to the Commission on Human Rights at its forthcoming session, along with the report of the Special Rapporteur on the transition to democracy in South Africa.

17. With regard to Haiti, he stressed the need to strengthen coordination between the Special Rapporteur, the technical assistance programmes of the Centre for Human Rights and the International Civilian Mission so that the United Nations system could respond more effectively to the needs of the Haitian people.

18. In Afghanistan, the armed conflict was continuing, especially in and around Kabul, with no peaceful resolution in sight. The Third Committee also had before it various reports on the situation of human rights in Cuba, the Islamic Republic of Iran, Iraq, Myanmar and the Sudan. Except for Myanmar, where the Special Rapporteur had just completed a mission, the other countries mentioned had not granted the necessary authorizations to allow the special rapporteurs to visit.

19. The problem of internally displaced persons was as serious as ever. In fact, the numbers of such persons only increased. In order to afford them better protection, the Special Representative of the Secretary-General was in the process of preparing a compendium of existing international norms and standards which reaffirmed their fundamental rights and took into account their individual and collective needs in an environment that was often hostile to their survival. In his interim report to the General Assembly, the Special Representative of the Secretary-General had outlined the elements of his future strategy for the protection of displaced persons and listed the obstacles to the exercise of his mandate, which he had begun to note during his missions to Colombia and Burundi in 1994.

20. Pursuant to a recent decision of the Economic and Social Council, the Commission would hear the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteur had stated that those phenomena persisted in 1994 in many parts of the world and were directed with violence expressed against various population groups.

21. He concluded by noting that an initial report was to have been submitted to the Committee by the Special Rapporteur on the sale of children, child prostitution and child pornography. During 1994, the Special Rapporteur had focused particular attention on questions relating to the adoption of children for commercial purposes, the exploitation of child labour, the use of children for organ transplants and the problem of children soldiers. He had also considered the sensitive problem of the sexual exploitation of children through certain traditional or religious practices. It was unfortunate that, in the wake of the resignation of the Special Rapporteur, the report would not be submitted.

22. Mr. KIRBY (Special Representative of the Secretary-General for Human Rights in Cambodia) said that he had just returned from his fourth visit to Cambodia since his appointment and described both the failures and the progress made in restoring democracy in that country. His second report (A/49/635) catalogued in detail the problems he had encountered since his first mission in January 1994.

23. The main source of human rights abuses could be traced, directly or indirectly, to the security situation. The refusal of the Khmer Rouge to participate in the democratic elections and their continuing control of strategic parts of the country were a destabilizing force which undermined the building of a civil society and a sound economy. He described the unsuccessful operations of the Government forces, the failed talks in Pyongyang and the numerous consequences inimical to human rights.

24. The Khmer Rouge had incited hatred against the ethnic Vietnamese minority in Cambodia. Such propaganda had led to forms of ethnic cleansing and had brought about the passage of an immigration law that had many unsatisfactory features. Consequently, hundreds of refugees had placed themselves under United Nations protection near the Vietnamese border.

25. In response to the Khmer Rouge banditry, an outlawry law had been enacted by the National Assembly. However, human rights organizations which had flourished since the establishment of the United Nations Transitional Authority in Cambodia (UNTAC) and with the help of the Office of the Centre for Human Rights in Phnom Penh were afraid that their legitimate activities to defend persons accused of being outlaws would imperil themselves.

26. The Khmer Rouge attack on a train travelling to Sihanoukville on 26 July 1994 had resulted in the killing of 16 Cambodians and the subsequent murder of 3 Western hostages. That act of cruelty was evidence of a dangerous new turn in the internal conflict in Cambodia. It presented an immediate threat to the hundreds of foreign workers who were helping to rebuild the country's social and economic infrastructure. Unfortunately, a number of attacks had been perpetrated in recent weeks against those associated with United Nations activities.

27. During his latest visit, he had provided advice on the draft press law soon to be presented to the National Assembly. He remained very concerned, however, about the many verbal and physical attacks on journalists. To the incidents listed in his report must be added the unsolved murder of a leading editor, the closure by executive order of a leading newspaper and the censorship of a television programme containing an interview with a former minister. It went without saying that free media were an essential guardian of human rights in Cambodia.

28. Many other problems relating to human rights remained to be tackled. They included the enactment of laws on the judiciary, nationality, land and refugees.

29. Despite that fairly gloomy picture, there had been some definite achievements. In the area of health, a national AIDS committee had been established. He hoped to give priority to that vitally important issue during his fifth mission to Cambodia in January 1995. Concerning the right to education, painstaking progress was being made. Rigorous and uncorrupted examinations had been introduced for school-leavers and judicial officers. He paid a tribute to France and to the United States of America for their assistance in the field of legal education. The judiciary was functioning better. Although there were many problems in that area, he had been impressed by the dedication, professionalism and independence of judges. Prisons were also improving. They were cleaner and better maintained, less overcrowded than before. The Australian Government had provided some of the necessary funds and the Cambodian Government had cooperated fully in those reforms.

30. While there had often been attacks on the media, the fact remained that Cambodia still had some of the freest and most vigorous media in the region. There were more than 20 Khmer-language newspapers and numerous foreign language media present in Cambodia. As for Cambodian human rights organizations, they continued to operate with vigour and courage, especially in the defence of Vietnamese refugees.

31. A major part of his work and that of the Centre for Human Rights lay in providing advice and suggestions. To that end, he was in almost daily contact with the Centre's office in Phnom Penh. Annexed to his report was a list of the formal recommendations submitted to the Cambodian Government with notes on the Government's responses. A new inter-ministerial committee had been established to supervise Cambodia's reporting on international human rights treaties which Cambodia had ratified.

32. He drew attention to a resolution, annexed to his report, which had been passed at a meeting on land-mines in Cambodia. It called for new national and international initiatives to ban the import, stockpiling and use of land-mines, which claimed almost 350 victims a month. On 2 October 1994, the King of Cambodia had repeated his appeal for the destruction of stockpiles of anti-personnel mines and for the enactment of effective laws by the National Assembly. However, the success of those efforts depended in part upon the full cooperation of other countries, including Cambodia's neighbours. In that context, he welcomed the recent statement by the Prime Minister of Thailand that any official of that country found to be supporting the Khmer Rouge would be severely punished. He reaffirmed the need to eliminate the sources of supply of weapons and anti-personnel mines to the Khmer Rouge. The Khmer Rouge had rejected the path of democracy and legitimacy, preferring that of genocide - in other words, the abuse of human rights. That was currently the primary cause of human rights abuses in Cambodia.

33. He thanked the High Commissioner for Human Rights who had visited Cambodia during his third mission there and had given him unwavering support, as had the Centre for Human Rights and its Phnom Penh office. He also thanked the High Commissioner for Refugees and her staff in Cambodia and the Secretary-General's representative in Cambodia, with whom he had established the closest liaison. He was also grateful to the Government of Cambodia, which had opened every door to him and had responded positively to many of his recommendations. Special thanks went also to the long-suffering and courageous people of Cambodia.

34. Although there was still discouraging news from Cambodia, there were also images of hope. Those who trusted the United Nations and the new Government which it had helped to secure for Cambodia must not be disappointed. The perpetrators of genocide must not be allowed to reclaim Cambodia. Cambodia was a test case for the staying power of the Organization and for its credibility.

35. Mr. ERMACORA (Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in Afghanistan), introducing his tenth report on the situation of human rights in Afghanistan (A/49/650), said that the activities of the United Nations in Afghanistan had humanitarian, political and human rights components.

36. The organization had provided humanitarian assistance to Afghan refugees in Pakistan and the Islamic Republic of Iran as well as to internally displaced persons in Afghanistan. The United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan had regularly issued appeals for emergency humanitarian assistance for Afghanistan.

37. On the political level, after the Geneva Accords had been concluded and the Soviet Union had begun to withdraw its troops, the United Nations had tried to contribute to a political solution to the conflict. A special mission had been dispatched to Afghanistan to see how the United Nations might best assist that country in facilitating national reconciliation and reconstruction. The mission had begun its work in Afghanistan in March 1994 under the leadership of Ambassador Mahmoud Mestiri and had met with a wide spectrum of Afghan leaders. The reports of the Secretary-General on that subject gave a detailed account of the special mission's activities.

38. As far as human rights were concerned, a Special Rapporteur had been reporting to the General Assembly and the Commission on Human Rights since 1984 on the human rights situation in the country.

39. Unfortunately, the work of the United Nations in those three areas was poorly coordinated. The main problem, so far as the situation of human rights was concerned, was the lack of any central government in the country. Afghanistan was in effect run by various political factions, which were grouped into changing coalitions. Over the previous two years those factions had been engaged in a struggle in which, according to some sources, foreign Powers were involved in one way or another. That armed conflict was the main cause of violations of human rights, including those enshrined in the international instruments to which Afghanistan was a party and to which the Islamic Government of Afghanistan had reiterated its commitment.

40. Kabul was, without doubt, the site of the severest fighting. Since 1 January 1994, thousands of people had been killed and wounded and hundreds of thousands displaced. During his last visit, he had been able to see for himself how, in that civil war, none of the parties respected the right to life or to property. In its press release of 30 September 1994, the United Nations special mission to Afghanistan had expressed its concern at the large number of persons, especially women and children, who were losing their lives in Kabul and had indicated that the parties involved were insensitive to the suffering of their own people and unresponsive to all appeals for dialogue. The situation in the provinces was less serious but there too the right to life and civil, political, economic, social and cultural rights were by no means fully protected.

41. With the assistance of United Nations agencies in the field and regional authorities, he had been able to visit different parts of Afghanistan and the regional capitals with a view to ascertaining the human rights situation in those areas at both the economic and social levels. In that regard, the weekly updates published by the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) and the news summaries issued by the Agency Coordinating Body for Afghan Relief (ACBAR) were particularly accurate and reliable sources of information about the situation in Afghanistan.

42. The only uniting factor in public life appeared to be the Koran, but its interpretation varied from region to region, a number of which were run by their governors with the assistance of shuras (councils), which were either unable or unwilling to establish contact with the Kabul authorities.

43. As for the administration of justice, the death penalty was in force in Afghanistan but its application also varied from region to region. Common criminals were sentenced by religious courts. The situation of prisoners was particularly worrying. As for political prisoners, no information was available about their places of detention, although it appeared that there were many such places and that former combatants, imprisoned in contravention of international humanitarian law, were being held as hostages.

44. As far as the situation of women was concerned, the hostilities - which had been going on for more than 15 years - had forced many women to abandon their homes. A large number of refugee and displaced women were living in degrading circumstances. In October 1994 a particularly interesting information bulletin had been published, describing a seminar on women held in Mazar-i-Sharif.

45. In parts of Afghanistan there was no law and order. People had been summarily executed for political reasons. One such case was the recent execution of an Afghan BBC journalist. In that connection, he recalled that the General Assembly resolutions relating to the protection of journalists engaged in dangerous missions in areas of armed conflict had never been respected. He also felt that the political amnesty proclaimed in 1992, upon the creation of the Islamic State of Afghanistan, had never taken effect. Two years after the victory of the Islamic forces, persons who had held certain positions in the Najibullah administration and should have benefited from the amnesty decree were being eliminated by groups apparently controlled by political parties.

46. In 1994, approximately 200,000 refugees - fewer than in the previous two years - had returned to Afghanistan from Pakistan and the Islamic Republic of Iran. The policy of those countries towards refugees was changing. In Khorasan province, some refugees had reportedly been expelled, while others had been granted permits for very short terms only, before being forced to relocate to a camp recently established by the Iranian Government.

47. In Pakistan, as United Nations assistance to Afghan refugees was phased out, the Government was seeking ways of ensuring that conditions inside Afghanistan would be conducive to the return of refugees. At the same time, since 12 January 1994, refugees wishing to enter Pakistan required a valid visa and travel documents. The situation of refugees returning under the United Nations repatriation grant programme had not changed.

48. The fighting in Kabul since 1 January 1994 had caused a massive exodus of the city's residents to other parts of the country, including to camps in Nangarhar province and to the north of the country. Despite efforts by United Nations agencies, non-governmental organizations and local authorities, the displaced persons were living in deplorable conditions and the relatively less severe conditions in Jalalabad were due only to the efficient management of the camps in that area.

49. He was concerned about the fate of Afghanistan's cultural heritage, an issue which the United Nations Educational, Scientific and Cultural Organization